

Message Text

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FOLLOWING IS TEXT OF FIRST DRAFT OF CHAPTER VII
(PEACEFUL USES OF NUCLEAR ENERGY) DISTRIBUTED TO
EXPERTS JULY 11.

BEGIN TEXT. VII. PEACEFUL USES OF NUCLEAR ENERGY

1. AVAILABILITY TO STATES INCLUDED IN THE ZONES OF NUCLEAR
SCIENCE AND TECHNOLOGY FOR PEACEFUL PURPOSES

1. WHILE A PRINCIPAL OBJECTIVE OF THE ESTABLISHMENT OF A NUCLEAR-
WEAPON-FREE ZONE IS THE EFFECTIVE ELIMINATION OF NUCLEAR WEAPONS
FROM THE ZONE AREA, AND WHILE THAT PURPOSE WOULD ALSO REQUIRE CERTAIN
RESTRICTIONS IN TERMS OF CONTROL AND MANAGEMENT TO BE APPLIED
ON CIVILIAN NUCLEAR ACTIVITIES, IT SHOULD BE EMPHASIZED THAT
STATES BEING MEMBERS OF A NUCLEAR-WEAPON-FREE ZONE HAVE THE EXPRESS
RIGHT TO USE NUCLEAR ENERGY FOR PEACEFUL PURPOSES.

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2. MANY EXPERTS REFERRED TO THE NPT REGIME AS THE OBVIOUS MODEL

FOR A NUCLEAR-WEAPON-FREE ZONE FOR PEACEFUL NUCLEAR ACTIVITIES, INCLUDING THE PROVISION THAT ACCESS TO THESE ACTIVITIES SHOULD BE FACILITATED FOR ZONAL STATES. IT WAS ALSO POINTED OUT THAT THE IAEA SHOULD HAVE AN ESSENTIAL ROLE IN THE PROMOTION OF SUCH ACCESS. IT WAS FURTHER STRESSED THAT THE CREATION OF A NUCLEAR-WEAPON-FREE ZONE AND THE APPLICATION OF AN EFFECTIVE SAFEGUARDS SYSTEM IN THE ZONE WOULD FACILITATE REGIONAL AND INTERNATIONAL CO-OPERATION IN THE PEACEFUL USES OF THE ATOM.

3. IN FACT, THE ONLY RESTRICTION THAT WOULD BE APPLIED ON THE PEACEFUL NUCLEAR ACTIVITIES OF ZONAL STATES WOULD BE TO GUARANTEE THAT SUCH ACTIVITIES WERE NOT DIVERTED TO PURPOSES NOT PERMITTED BY THE ZONE-TREATY. WITH THE ONLY EXCEPTION OF PEACEFUL NUCLEAR EXPLOSIONS, WHICH ARE DEALT WITH IN SUB-CHAPTER 4 BELOW, SUCH RESTRICTIONS WOULD BE LIMITED TO IAEA SAFEGUARDS AND POSSIBLY AGREED PHYSICAL PROTECTION MEASURES. (SEE CHAPTER V).

2. ROLE OF NUCLEAR WEAPON STATES

4. WHILE MANY EXPERTS REFERRED TO THE PROVISIONS OF ARTICLES IV AND V OF THE NPT AS THE BEST GUIDELINE FOR A NUCLEAR-WEAPON-FREE ZONE, IT WAS ALSO POINTED OUT THAT SUCH A ZONE WOULD BE THE RESULT OF A REGIONAL AGREEMENT AND THAT, THEREFORE, IT WOULD BE LESS LIKELY THAT OBLIGATIONS OF THIS NATURE COULD BE IMPOSED ON NUCLEAR WEAPON STATES. IT SHOULD BE REQUESTED, HOWEVER, IN NUCLEAR-WEAPON-FREE ZONE TREATIES THAT NUCLEAR WEAPON STATES SHALL CO-OPERATE WITH ZONAL STATES IN THE PEACEFUL USES OF NUCLEAR ENERGY IN SUCH A WAY THAT THE KEY PURPOSES OF THE ZONE WOULD NOT BE VIOLATED OR ENDANGERED. THE SAME PROVISION, IT WAS NOTED, SHOULD ALSO APPLY TO OTHER STATES AND PARTICULARLY TO THOSE WITH ADVANCED PEACEFUL NUCLEAR TECHNOLOGY.

3. ROLE OF INTERNATIONAL ORGANIZATIONS AND ARRANGEMENTS

5. IT IS CLEAR THAT ONCE A NUCLEAR-WEAPON-FREE ZONE HAS BEEN CREATED, AN ELEMENT OF REGIONAL CO-OPERATION HAS BEEN ESTABLISHED IN THE AREA OF THE ZONE THAT COULD BE EXPANDED TO COVER OTHER
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POSSIBLE FIELDS OF CO-OPERATION, INCLUDING THE PEACEFUL USES OF NUCLEAR ENERGY. THE CENTRE OF IMPLEMENTATION AND CO-ORDINATION OF SUCH EXTENDED CO-OPERATION COULD POSSIBLY COINCIDE WITH THE REGIONAL BODIES OR AD HOC AGENCIES NECESSARY FOR VERIFICATION AND CONTROL. (SEE CHAPTER V).

6. IT WOULD ALSO BE DESIRABLE TO CONCLUDE AN AGREEMENT BETWEEN THE IAEA AND A COMPETENT AUTHORITY REPRESENTING THE ZONE ON CO-OPERATION IN CIVIL NUCLEAR ACTIVITIES, AS WAS DONE BETWEEN IAEA AND OPANAL.

7. PARTICULAR ATTENTION WAS PAID TO THE POSSIBILITY OF CO-OPERATION BETWEEN ZONAL STATES IN TERMS OF REGIONAL FUEL CYCLE CENTRES SERVING VITAL INDUSTRIAL, ECONOMIC, AND SECURITY NEEDS. IT WAS SUGGESTED THAT THE CREATION OF SUCH CENTRES MIGHT ALSO IMPLY THE ABSTENTION BY STATES FROM HAVING CERTAIN NUCLEAR FACILITIES OF THEIR OWN, OR THE SUBORDINATION OF FACILITIES THEY MAY HAVE TO THE REGIONAL CENTRE, THEREBY FURTHER STRENGTHENING THE SECURITY MEASURES OF THE NUCLEAR-WEAPON-FREE ZONES.

8. THE CENTRAL FEATURE OF SUCH AN ARRANGEMENT IS THAT MEMBER STATES OF THE ZONE COULD SATISFY THEIR REQUIREMENTS FOR ENRICHMENT AND CHEMICAL PROCESSING SERVICES THROUGH A REGIONAL CENTRE. MEMBER STATES COULD UNDERTAKE NOT TO CONSTRUCT OR OPERATE ENRICHMENT OR CHEMICAL PROCESSING FACILITIES WHICH DID NOT COME UNDER THE CONTROL OF THE CENTRE, OR TO MAKE SUPPLY ARRANGEMENTS WHICH BY-PASSED IT. IN ADDITION, THE CENTRE COULD ENSURE THAT MEMBER STATES DID NOT TAKE DELIVERY OF ENRICHED URANIUM OR PLUTONIUM IN EXCESS OF THEIR SCHEDULED REQUIREMENTS. MEMBER STATES MIGHT ALSO AGREE THAT ENRICHED URANIUM OR PLUTONIUM PRODUCED ON THEIR BEHALF AND NOT REQUIRED FOR EARLY USE IS HELD IN THE CUSTODY OF THE CENTRE.

9. WITHIN THE LIMITATION THAT IT RETAIN CONTROL OVER SUPPLY AND ACCEPT RESPONSIBILITY FOR STORAGE OF EXCESS FISSILE MATERIAL, THE REGIONAL CENTRE COULD CHOOSE BETWEEN A NUMBER OF ALTERNATIVE WAYS OF PROCEEDING. THREE POSSIBLE ALTERNATIVES ARE:

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(A) IT COULD LEAVE MEMBER STATES TO CONTRACT WITH THIRD COUNTRIES FOR THEIR ENRICHMENT AND PROCESSING REQUIREMENTS SUBJECT TO ITS APPROVAL THAT SUPPLY WAS JUSTIFIED ON THE BASIS OF SCHEDULED REQUIREMENTS;

(B) IT COULD ACCEPT RESPONSIBILITY FOR ARRANGING SUPPLY, RELYING ON THE AGGREGATION OF DEMAND TO GIVE IT A SPECIAL POSITION IN THE MARKET;

(C) IT COULD BUILD AND OPERATE ITS OWN PLANTS OR CONTRACT WITH OTHERS TO DO SO ON ITS BEHALF.

ALTERNATIVE (C) WOULD REPRESENT A LOGICAL DEVELOPMENT WHEN JUSTIFIED BY DEMAND SINCE IT WOULD ALLOW MEMBER STATES TO REAP THE ECONOMIC BENEFIT OF OPERATION OF THEIR OWN FUEL CYCLE, WITHOUT BEING DIRECTLY INVOLVED AT THE NATIONAL LEVEL.

10. IN CHOOSING THE LOCATION FOR PLANTS WITHIN A ZONE IT WOULD BE NECESSARY TO SELECT A MEMBER STATE OFFERING BOTH THE PHYSICAL AND TECHNICAL BASIS FOR PLANT CONSTRUCTION AND OPERATION AS WELL AS ADEQUATE PHYSICAL PROTECTION MEASURES.

11. ALTHOUGH THIS TYPE OF NUCLEAR-WEAPON-FREE ZONE ARRANGEMENT
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MIGHT OR MIGHT NOT INVOLVE MEMBER STATES IN THE SURRENDER OF THE RIGHT TO ENGAGE IN A CERTAIN INDUSTRIAL ACTIVITY, THERE ARE ECONOMIC REASONS WHY MANY STATES MIGHT FIND SUCH A PROPOSITION ATTRACTIVE. AS A HIGHLY CAPITAL INTENSIVE OPERATION MANY COUNTRIES ARE CONCERNED ABOUT THE COST OF NUCLEAR FACILITIES, AND A REGIONAL CENTRE COULD REPRESENT A CONSTRUCTIVE ENDEAVOUR TO MEET THEIR ENERGY REQUIREMENTS ON A CO-OPERATIVE AND ECONOMICAL BASIS. IN ADDITION, THE DISPOSAL OF THE NUCLEAR WASTES FROM CHEMICAL PROCESSING REPRESENTS A MAJOR PROBLEM AND MANY COUNTRIES WOULD PROBABLY WELCOME A PROCESSING SERVICE WHICH TOOK THE BURDEN OF DISPOSING OF THE NUCLEAR WASTES OUT OF THEIR HANDS.

4. PEACEFUL NUCLEAR EXPLOSIONS

12. THE ISSUE OF NUCLEAR EXPLOSIONS FOR PEACEFUL PURPOSES UNDERTAKEN WITHIN NUCLEAR-WEAPON-FREE ZONES POSES A PARTICULAR DILEMMA TO THE TREATY-MAKING FOR SUCH ZONES. WHILE IT IS ACCEPTED THAT ALL PEACEFUL BENEFITS OF NUCLEAR ENERGY SHOULD BE AVAILABLE TO MEMBERS OF THE ZONES, THE FACT IS THAT NUCLEAR EXPLOSIVE DEVICES COULD ALSO BE USED AS WEAPONS. IT IS CLEAR THAT INDIGENOUS DEVELOPMENT AND PRODUCTION OF SUCH DEVICES COULD VIOLATE ONE OF THE PRINCIPAL PURPOSES OF THE ZONE. (SEE CHAPTER IV). IT WAS STRONGLY EMPHASIZED

BY MANY EXPERTS THAT WHILE ALL STATES HAVE THE RIGHT OF ACCESS TO THE POSSIBLE ADVANTAGES OF PEACEFUL NUCLEAR EXPLOSIONS, STATES MEMBERS OF THE ZONE MUST NOT PRODUCE THEMSELVES ANY NUCLEAR EXPLOSIVE DEVICES FOR PEACEFUL PURPOSES, AND THAT SUCH DEVICES SHOULD ONLY BE SUPPLIED BY STATES OUTSIDE THE ZONE WITH THE ASSISTANCE OF IAEA AND IN ACCORDANCE WITH RULES PROVIDED FOR BY THE ZONE-TREATY.

13. IT WAS EMPHASIZED THAT THE SERVICES OF THE IAEA AD HOC ADVISORY GROUP ON NUCLEAR EXPLOSIONS FOR PEACEFUL PURPOSES WOULD BE OF GREAT VALUE IN PLANNING PEACEFUL NUCLEAR EXPLOSION PROJECTS, AND THAT THE IAEA GUIDELINES FOR INTERNATIONAL OBSERVATION OF PEACEFUL NUCLEAR EXPLOSION OPERATIONS (INFCIRC/169), AS ADAPTED TO THE LEGAL FRAMEWORK OF THE NUCLEAR-WEAPON-FREE ZONE, SHOULD BE FOLLOWED IN ALL SUCH PROJECTS.

14. DETAILED PROCEDURES FOR UNDERTAKING PEACEFUL NUCLEAR EXPLOSIONS MAY BE EMBODIED IN THE TREATY OF THE ZONE. PROCEDURES FOR PEACEFUL NUCLEAR EXPLOSIONS ARE CONTAINED IN THE TREATY OF TLATELOLCO
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(ARTICLE 18), WHICH ALSO PRESCRIBES THAT A MEMBER OF THE ZONE WHO INTENDS TO CARRY OUT A NUCLEAR EXPLOSION FOR PEACEFUL PURPOSES SHALL NOTIFY THE REGIONAL BODY (OPANAL) SUPERVISING THE ZONE, AND PROVIDE SPECIFIED INFORMATION ON, AND PERMIT ACCESS TO, THE PROJECT IN ORDER TO AVOID SUSPICIONS AS TO THE PROPER NATURE AND PURPOSE OF THE EXPLOSION, AND TO VERIFY THAT THE PROJECT COMPLIES WITH TREATY PROVISIONS. END TEXTDALE

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